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7590

12/17/2003

Curtis W. Dodd
2803 Bentley Street
Huntsville, AL 35801

EXAMINER

NEWHOUSE, NATHAN JEFFREY

ART UNIT	PAPER NUMBER
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3727

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DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/938,965

Applicant(s)

WILLIAMS, AMBERS F.

Examiner

Nathan J. Newhouse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because they contain a written description on the figures. Applicant should only use the reference numbers on the drawings for the different parts of the invention and refer to these numbers in the specification. **A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. Applicant stated that this would be corrected in the reply of September 29, 2003, but none has been received.**

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Marks (US 4,735,388).

Marks teaches a U-shaped mount (23), a first pivot means (19) lockable by a thumb screw (20), a clamp (4), a second pivot means (7) lockable by a thumb screw (6) and a mounting shaft (10 or 17) for coupling the two pivots. The parts of Marks are interchangeable to allow for different configurations, therefore it would have been obvious to use only one shaft. See col. 3, lines 6-24.

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The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Marks which is capable of being used in the intended manner, i.e., U-shaped mount is for hunting equipment and the clamp is for mounting to an ATV (see M.P.E.P. 2111).

4. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Gillaspay (US 2,605,069).

Gillaspay teaches a U-shaped mount (29), a first pivot means (25,26) lockable by a binding knob (27), a clamp (11), a second pivot means (18,20) lockable by a binding knob (21) and a mounting shaft (19,22) for coupling the two pivots.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Gillaspay which is capable of being used in the intended manner, i.e., U-shaped mount is for hunting equipment and the clamp is for mounting to an ATV (see M.P.E.P. 2111).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks (US 4,735,388) in view of Chen (US 5,360,018).

Marks teaches a ball (5 or 22) on the clamp (4) or U-shaped mount (23) and a retainer (21, 26) that couples with the balls (7,19) on the mounting shaft (10 or 17), but Marks does not teach the U-shaped mount and the clamp having a threaded shaft with a seat to receive a ball and a threaded nut that couples with the balls on the mounting shaft.

Chen teaches similar device having a ball joint to allow an object to move universally. This joint is formed by a threaded shaft (80) with a ball seat and a coupling nut to hold the ball. It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the ball and retainer of Marks with the universal ball joint of Chen wherein the clamp and U-shaped mount of Marks would have a threaded shaft with a ball seat and a coupling nut locks the balls of the mounting shaft of Marks to provide a universal ball joint that is more easily positionable as the attachment is only one ball joint at the U-shaped mount and clamp instead of two.

With respect to claims 3-4, 6-7 and 9-10, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by the combination which is capable of being used in the intended manner, i.e., the U-shaped mount is for a gun or bow (see M.P.E.P. 2111).

7. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks (US 4,735,388) in view of Siegel (US 3,424,419).

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Marks teaches a ball (5 or 22) on the clamp (4) or U-shaped mount (23) and a retainer (21, 26) that couples with the balls (7,19) on the mounting shaft (10 or 17), but Marks does not teach the U-shaped mount and the clamp having a threaded shaft with a seat to receive a ball and a threaded nut that couples with the balls on the mounting shaft.

Siegel teaches similar device having a ball joint to allow an object to move universally. This joint is formed by a threaded shaft (22) with a ball seat (26) and a coupling nut (20) to hold the ball (24). It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the ball and retainer of Marks with the universal ball joint of Siegel wherein the clamp and U-shaped mount of Marks would have a threaded shaft with a ball seat and a coupling nut locks the balls of the mounting shaft of Marks to provide a universal ball joint that is more easily positionable as the attachment is only one ball joint at the U-shaped mount and clamp instead of two.

With respect to claims 3-4, 6-7 and 9-10, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by the combination which is capable of being used in the intended manner, i.e., the U-shaped mount is for a gun or bow (see M.P.E.P. 2111).

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marks (US 4,735,388) in view of Gillaspay (US 2,605,069).

Marks teaches a U-shaped mount (23), a first pivot means (19) lockable by a thumb screw (20), a clamp (4), a second pivot means (7) lockable by a thumb screw (6)

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and a mounting shaft (10 or 17) for coupling the two pivots. The parts of Marks are interchangeable to allow for different configurations, therefore it would have been obvious to use only one shaft. See col. 3, lines 6-24.

To the degree that it can be argued the mount (23) of Marks is not U-shaped, Gillaspay teaches a U-shaped mount for holding the same type of objects. Therefore, the mount of Marks and Gillaspay are considered to be art recognized equivalents and it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the U-shaped mount of Gillaspay in place of the mount of Marks.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by combination, as set forth above, which is capable of being used in the intended manner, i.e., U-shaped mount is for hunting equipment and the clamp is for mounting to an ATV (see M.P.E.P. 2111).

9. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks (US 4,735,388) in view of Gillaspay (US 2,605,069) as applied to claim 11 in paragraph #7, and further in view of Chen (US 5,360,018).

Marks, as modified above, teaches a ball (5 or 22) on the clamp (4) or U-shaped mount (23) and a retainer (21, 26) that couples with the balls (7,19) on the mounting shaft (10 or 17), but Marks does not teach the U-shaped mount and the clamp having a threaded shaft with a seat to receive a ball and a threaded nut that couples with the balls on the mounting shaft.

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Chen teaches similar device having a ball joint to allow an object to move universally. This joint is formed by a threaded shaft (80) with a ball seat and a coupling nut to hold the ball. It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the ball and retainer of Marks with the universal ball joint of Chen wherein the clamp and U-shaped mount of Marks would have a threaded shaft with a ball seat and a coupling nut locks the balls of the mounting shaft of Marks to provide a universal ball joint that is more easily positionable as the attachment is only one ball joint at the U-shaped mount and clamp instead of two.

With respect to claims 3-4, 6-7 and 9-10, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by the combination which is capable of being used in the intended manner, i.e., the U-shaped mount is for a gun or bow (see M.P.E.P. 2111).

10. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks (US 4,735,388) in view of Gillaspys (US 2,605,069) as applied to claim 11 in paragraph #7, and further in view of Siegel (US 3,424,419).

Marks, as modified above, teaches a ball (5 or 22) on the clamp (4) or U-shaped mount (23) and a retainer (21, 26) that couples with the balls (7,19) on the mounting shaft (10 or 17), but Marks does not teach the U-shaped mount and the clamp having a threaded shaft with a seat to receive a ball and a threaded nut that couples with the balls on the mounting shaft.

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With respect to claims 3-4, 6-7 and 9-10, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by the combination which is capable of being used in the intended manner, i.e., the U-shaped mount is for a gun or bow (see M.P.E.P. 2111).

Response to Arguments

11. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

In addition, it is to be noted that while the U-shaped mounts of Marks and Gillaspay are used to hold bottles, these mounts are capable of holding hunting equipment such as guns or bows as there is no structural difference between these mounts and that shown in the cited art(see Shepherd et al. US 6,042,080 and Kervin US 5,979,099).

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Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Strelakos, DeLano and Elberbaum teach similar universal ball joints to what applicant is claiming.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.


Nathan J. Newhouse
Primary Examiner
Art Unit 3727